

By: Senator(s) Robertson, Davis, Cuevas, Dawkins, Gollott, Hewes, Lee (47th), Moffatt, Albritton, Burton, Butler, Carmichael, Chaney, Dearing, Jackson (11th), Jackson (32nd), Jordan, King, Lee (35th), Little, Mettetal, Morgan, Posey, Ross, Thames, Walley, White, Williamson To: Finance; Appropriations

SENATE BILL NO. 2002

1 AN ACT TO AMEND SECTION 27-107-321, MISSISSIPPI CODE OF 1972,
2 TO AUTHORIZE THE DEPARTMENT OF FINANCE AND ADMINISTRATION TO MAKE
3 GRANTS TO LOCAL GOVERNMENTS FROM THE EMERGENCY AID TO LOCAL
4 GOVERNMENTS FUND; TO PROVIDE THAT INTEREST EARNED OR INVESTMENT
5 EARNINGS ON AMOUNTS IN THE FUND SHALL BE DEPOSITED TO THE CREDIT
6 OF THE FUND AND TO PROVIDE THAT GRANTS FROM THE FUND MAY NOT
7 EXCEED \$3,000,000.00 AND THAT THE TOTAL AGGREGATE AMOUNT OF ALL
8 GRANTS SHALL NOT EXCEED \$25,000,000.00; TO AUTHORIZE THE ISSUANCE
9 OF STATE GENERAL OBLIGATION GULF TAX CREDIT BONDS IN A PRINCIPAL
10 AMOUNT NOT TO EXCEED \$100,000,000.00 AS AUTHORIZED BY THE GULF
11 OPPORTUNITY ZONE ACT OF 2005 ENACTED BY THE UNITED STATES CONGRESS
12 IN RESPONSE TO HURRICANE KATRINA; TO AUTHORIZE THE USE OF THE
13 PROCEEDS OF SUCH GENERAL OBLIGATION BONDS TO PAY DEBT SERVICE ON
14 ANY OUTSTANDING GENERAL OBLIGATION BONDS OF THE STATE FOR FISCAL
15 YEAR 2007; TO PROVIDE FOR THE TERMS AND PROVISIONS OF SUCH GENERAL
16 OBLIGATION BONDS AND THE IMPLEMENTATION OF CERTAIN PROVISIONS OF
17 THE GULF OPPORTUNITY ZONE ACT OF 2005 RELATED TO SUCH GENERAL
18 OBLIGATION BONDS; TO AMEND SECTION 31-17-123, MISSISSIPPI CODE OF
19 1972, TO MAKE IT CLEAR THAT INTEREST EARNED ON THE DISASTER
20 RECOVERY FUND SHALL BE DEPOSITED TO THE CREDIT OF SUCH FUND; TO
21 AMEND SECTION 3, CHAPTER 534, LAWS OF 2006, TO PROVIDE THAT THE
22 STATE TREASURER SHALL TRANSFER DURING FISCAL YEARS 2007 AND 2008
23 INTEREST EARNED OR INVESTMENT EARNINGS ON AMOUNTS IN THE HURRICANE
24 DISASTER ASSISTANCE FUND TO THE EMERGENCY AID TO LOCAL GOVERNMENTS
25 FUND; TO AMEND SECTION 6, CHAPTER 17, LAWS OF 2006, TO REDUCE THE
26 AMOUNT OF FUNDS UTILIZED FROM THE BUDGET CONTINGENCY FUND FOR
27 PAYMENT OF MATURING BONDS AND INTEREST ON THE FULL FAITH AND
28 CREDIT BONDS OF THE STATE OF MISSISSIPPI FALLING DUE DURING FISCAL
29 YEAR 2007; TO PROVIDE THAT \$200,000,000.00 SHALL BE UTILIZED FROM
30 THE TAX CREDIT BOND PROCEEDS FUND FOR PAYMENT OF MATURING BONDS
31 AND INTEREST ON THE FULL FAITH AND CREDIT BONDS OF THE STATE OF
32 MISSISSIPPI FALLING DUE DURING FISCAL YEAR 2007; TO REQUIRE THE
33 TRANSFER OF \$100,000,000.00 FROM THE BUDGET CONTINGENCY FUND TO
34 THE DISASTER RECOVERY FUND; AND FOR RELATED PURPOSES.

35 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

36 SECTION 1. Section 27-107-321, Mississippi Code of 1972, is
37 amended as follows:

38 27-107-321. (1) (a) There is established an emergency aid
39 to local governments loan and grant program to be administered by
40 the Department of Finance and Administration, referred to in this
41 section as "department," for the purpose of assisting counties,
42 incorporated municipalities and public school districts that
43 suffer revenue losses as a result of a natural disaster for which

44 a state of emergency has been duly proclaimed. Loan and grant
45 proceeds distributed to counties, incorporated municipalities and
46 public school districts shall be considered to be, and shall be
47 utilized by recipient in the same manner as, governmental,
48 enterprise or internal service fund type revenues, specifically
49 for essential government services, including the payment of debt
50 service.

51 (b) The department may contract for facilities and
52 staff needed to administer this section, including routine
53 management, as it deems necessary. The department may advertise
54 for or solicit proposals from public or private sources, or both,
55 for administration of this section or any services required for
56 administration of this section or any portion thereof. It is the
57 intent of the Legislature that the department endeavor to ensure
58 that the costs of administration of this section are as low as
59 possible.

60 (2) (a) There is created a special fund in the State
61 Treasury to be designated as the "Emergency Aid to Local
62 Governments Fund," referred to in this section as "fund," which
63 fund shall consist of money transferred from the Disaster Recovery
64 Fund created in Section 31-17-123 and money designated for deposit
65 therein from any other source, public or private, including, but
66 not limited to, appropriations, bond proceeds, grants, gifts or
67 donations. The fund shall be credited with all repayments of
68 principal and interest derived from loans made from the fund.
69 Unexpended amounts remaining in the fund at the end of a fiscal
70 year shall not lapse into the State General Fund, and any interest
71 earned or investment earnings on amounts in the fund shall be
72 deposited to the credit of the Emergency Aid to Local Governments
73 Fund. Monies in the fund may not be used or expended for any
74 purpose except as authorized under this section.

75 (b) The department shall establish a loan and grant
76 program by which loans and grants may be made available to

77 counties, incorporated municipalities and public school districts,
78 to assist those counties, incorporated municipalities and public
79 school districts. Any governmental entity in the current fiscal
80 year that demonstrates a projected revenue loss equal to or
81 exceeding twenty-five percent (25%) of its governmental fund type
82 revenues in the fiscal year prior to the occurrence of the natural
83 disaster eligible under this section may qualify for a loan and/or
84 grant. The interest rate on loans made under this section may
85 vary from time to time and from loan to loan, and shall be at or
86 below market interest rates as determined by the department. The
87 department shall act as quickly as is practicable and prudent in
88 deciding on any loan or grant request that it receives. No loan
89 or grant shall be approved under this section unless the county,
90 municipality or public school district requesting the loan or
91 grant has exhausted all other available public or private programs
92 to obtain funds for the revenue loss that it is projected to
93 suffer. Such public or private programs shall include, but not be
94 limited to, loans, grants and donations.

95 (c) The aggregate amount of any loans or grants
96 received under this section by a county, incorporated municipality
97 or public school district shall not exceed one hundred percent
98 (100%) of the difference between the revenue received by a county,
99 incorporated municipality or public school district from
100 governmental fund type revenues that are used to fund essential
101 services in the fiscal year prior to the occurrence of the natural
102 disaster and the estimated revenue from such sources after the
103 occurrence of the natural disaster plus available cash reserves or
104 fund balances at the fiscal year end, as determined by the
105 department. The State Bond Commission shall set the maximum
106 amount of any loan or grant made under this section at an amount
107 that will ensure the equitable distribution of the amounts
108 available for loans and grants to the eligible governmental
109 entities affected by the natural disaster, but in no event shall a

110 grant exceed Three Million Dollars (\$3,000,000.00) or the total
111 aggregate amount of all grants exceed Twenty-five Million Dollars
112 (\$25,000,000.00).

113 (d) A county or public school district that receives a
114 loan from the fund shall pledge for repayment of the loan any part
115 of the homestead exemption annual tax loss reimbursement to which
116 it may be entitled under Section 27-33-77, as may be required by
117 the department. An incorporated municipality that receives a loan
118 from the fund or the emergency fund shall pledge for repayment of
119 the loan any part of the sales tax revenue distribution to which
120 it may be entitled under Section 27-65-75 or any part of the
121 homestead exemption annual tax loss reimbursement to which it may
122 be entitled under Section 27-33-77, as may be required by the
123 department. All recipients of such loans shall establish a
124 dedicated source of revenue for repayment of the loan. Before any
125 county, incorporated municipality or public school district shall
126 receive any loan, it shall have executed with the department a
127 loan agreement evidencing that loan, a copy of which shall be
128 filed by the department with the State Tax Commission. The loan
129 agreement shall not be construed to prohibit any recipient from
130 prepaying any part or all of the funds received. The repayment
131 schedule in each loan agreement shall provide for (i) monthly
132 payments, (ii) semiannual payments or (iii) other periodic
133 payments. The loan agreement shall provide for the repayment of
134 all funds received from the fund within not more than three (3)
135 years. The State Tax Commission shall, at the direction of the
136 department, withhold semiannually from counties, incorporated
137 municipalities and public school districts and monthly from
138 incorporated municipalities, from the amount to be remitted to the
139 county, municipality or public school district, the sum necessary
140 to pay all or a portion of the periodic payments for the loan.

141 (e) Any county, incorporated municipality or public
142 school district which receives a loan from the state for that

143 purpose but which is not eligible to pledge for repayment under
144 the provisions of paragraph (d) of this subsection, shall repay
145 that loan by making payments each month to the State Treasurer
146 through the Department of Finance and Administration for and on
147 behalf of the department according to Section 7-7-15, to be
148 credited to the fund in lieu of pledging homestead exemption
149 annual tax loss reimbursement or sales tax revenue distribution.

150 Loan repayments shall be according to a repayment schedule
151 contained in each loan agreement as provided in paragraph (d) of
152 this subsection.

153 (f) Evidences of indebtedness which are issued pursuant
154 to this section shall not be deemed indebtedness within the
155 meaning specified in Section 21-33-303 with regard to cities and
156 incorporated towns, in Section 19-9-5 with regard to counties and
157 in Section 37-59-5 with regard to public school districts.

158 (g) The State Auditor, upon request of the department,
159 shall audit the receipts and expenditures of a county, an
160 incorporated municipality or a public school district if loan
161 repayments appear to be in arrears, and if the Auditor finds that
162 the county, incorporated municipality or public school district is
163 in arrears in those repayments, the Auditor shall immediately
164 notify the executive director of the department who may take any
165 action as may be necessary to enforce the terms of the loan
166 agreement, including liquidation and enforcement of the security
167 given for repayment of the loan, and the executive director of the
168 department may, in his discretion, notify the State Tax Commission
169 to withhold all future payments to the county, incorporated
170 municipality or school district of homestead exemption annual tax
171 loss reimbursements under Section 27-33-77 and/or all sums
172 allocated to the incorporated municipality under Section 27-65-75,
173 until such time as the county, incorporated municipality or public
174 school district is again current in its loan repayments as
175 certified by the department.

176 (h) All monies deposited in the fund shall be used only
177 for providing the loans and grants authorized under this section.
178 In addition, any amounts in the fund may be used to defray the
179 reasonable costs of administering the fund. The department is
180 authorized to use amounts available to it from the fund to
181 contract for those facilities and staff needed to administer and
182 provide routine management for the funds and loan program.

183 (3) In administering this section the department shall have
184 the following powers and duties:

185 (a) To supervise the use of all funds made available
186 under this section;

187 (b) To promulgate rules and regulations, to make
188 variances and exceptions thereto, and to establish procedures in
189 accordance with this section for the implementation of the loan
190 and grant program;

191 (c) To requisition monies in the fund and distribute
192 those monies in accordance with this section;

193 (d) To maintain, in accordance with generally accepted
194 government accounting standards, an accurate record of all monies
195 in the fund made available to counties, incorporated
196 municipalities and public school districts under this section;

197 (e) To file annually with the Legislature a report
198 detailing how monies in the fund were distributed during the
199 preceding fiscal year to each county, incorporated municipality
200 and public school district.

201 (4) The State Bond Commission, at one time, or from time to
202 time, may declare the necessity for funds for the purposes
203 provided in this section, including the costs incident to the
204 administration of the loan and grant program. Upon approval by
205 the State Bond Commission, the department is authorized to
206 transfer any necessary amount from the Disaster Recovery Fund
207 created in Section 31-17-123 to the fund in ample time to
208 discharge such loans, grants and incidental costs.

209 (5) The department is authorized, without further process of
210 law, to certify the necessity for warrants and is authorized and
211 directed to issue such warrants, in such amounts as may be
212 necessary to make loans and grants under the program authorized by
213 this section.

214 (6) After any state funds in the fund are no longer needed
215 for the particular purpose for which they were appropriated,
216 deposited or transferred into the fund, the department shall
217 transfer those state funds back to the particular fund or funds in
218 the State Treasury from which they were appropriated or
219 transferred into the fund, upon certification of the State Fiscal
220 Officer that the state funds are not currently needed.

221 **SECTION 2.** The Legislature hereby finds that Hurricane
222 Katrina resulted in a natural catastrophe severely impacting the
223 State of Mississippi and many of the political subdivisions of the
224 state. The Legislature hereby determines that the issuance of
225 general obligation bonds of the state to provide funds to pay the
226 principal of, interest on and premium, if any, on qualified bonds,
227 notes, certificates of indebtedness, and other debt obligations of
228 the state is in all respects a public and governmental purpose to
229 protect and/or improve the credit rating of the state, that this
230 purpose is a public purpose, that the state will be performing an
231 essential governmental function and meeting a public obligation in
232 the exercise of the powers conferred upon it by this act, is a
233 permitted use of the funds and credit of the state, will result in
234 economic and financial benefits to the state and the political
235 subdivisions of the state, and will provide relief from the
236 consequences of Hurricane Katrina.

237 **SECTION 3.** As used in Sections 2 through 17 of this act:

238 (a) "Bonds" means the gulf tax credit bonds, notes or
239 other evidences of indebtedness of the state issued pursuant to
240 the provisions of Sections 2 through 17 of this act.

241 (b) "Commission" means the State Bond Commission.

242 (c) "Debt service" means the payment of principal of,
243 interest on, premium, if any, sinking or reserve funds or other
244 requirements, costs or expenses due and payable on general
245 obligation bonds, notes, certificates of indebtedness, or other
246 written general obligations for the repayment of borrowed money of
247 the state during the state's fiscal year ending June 30, 2007.

248 (d) "Fund" means the Tax Credit Bond Proceeds Fund.

249 (e) "Gulf Opportunity Zone Act" means the Gulf
250 Opportunity Zone Act of 2005 enacted by the United States Congress
251 in response to Hurricanes Katrina, Rita and Wilma.

252 (f) "Gulf Tax Credit Bonds" means general obligation
253 bonds of the state or other general obligations of the state
254 issued pursuant to the provisions of this act and the Gulf
255 Opportunity Zone Act.

256 (g) "Natural catastrophe" means the consequences of
257 Hurricane Katrina on the state and the resulting fiscal emergency
258 caused to exist in the state.

259 (h) "Qualified Bond" means any general obligation of
260 the State which was outstanding on August 28, 2005, as defined in
261 and subject to the limitations imposed by the Gulf Opportunity
262 Zone Act.

263 (i) "State" means the State of Mississippi.

264 (j) "This act" means Sections 2 through 17 of this act.

265 **SECTION 4.** (1) (a) A special fund, to be designated as the
266 "Tax Credit Bond Proceeds Fund," is created within the State
267 Treasury. The fund shall be maintained by the State Treasurer
268 as a separate and special fund, separate and apart from the
269 General Fund of the state. Unexpended amounts remaining in the
270 fund at the end of a fiscal year shall not lapse into the state's
271 General Fund, and any interest earned or investment earnings on
272 amounts in the fund shall be deposited into such fund and used as
273 provided in Section 5 of this act.

274 (b) There shall be deposited into the fund the proceeds
275 of the bonds issued pursuant to Section 5 of this act and the
276 money pledged to meet the state matching requirement under the
277 Gulf Opportunity Zone Act as provided in Section 6 of this act.

278 (2) Money deposited into the fund shall be used solely as
279 provided in this act and the Gulf Opportunity Zone Act to make
280 debt service payments on qualified bonds of the state.

281 (3) All money deposited into the fund shall be expended in
282 accordance with the provisions of this act and the Gulf
283 Opportunity Zone Act.

284 **SECTION 5.** (1) The commission, at one time, or from time to
285 time, may declare by resolution the necessity for the issuance of
286 general obligation bonds or other general obligations of the state
287 to provide funds for the relief of a natural catastrophe through
288 the payment of debt service on qualified bonds of the state. The
289 commission shall act as the issuing agent for the bonds authorized
290 under this act, prescribe the form of the bonds, issue and sell
291 the bonds so authorized to be sold, pay all fees and costs
292 incurred in such issuance and sale from the money on deposit in
293 the Tax Credit Bond Proceeds Fund, and do any and all other things
294 necessary and advisable in connection with the issuance and sale
295 of such bonds. The bonds authorized to be issued pursuant hereto
296 shall be issued as gulf tax credit bonds as provided in the Gulf
297 Opportunity Zone Act, shall bear interest at a rate of zero
298 percent (0%), shall mature not more than two (2) years from their
299 date of issuance, shall be issued before January 1, 2007, and
300 shall entitle the owner of the bonds to a credit against federal
301 taxation to the extent allowed by and in accordance with the
302 provisions of the Gulf Opportunity Zone Act. Such bonds may be
303 issued in one or more series, may bear such date or dates, may be
304 in such denominations, may be sold at public or private sale, from
305 time to time, in such manner and at such price as may be
306 determined by the commission to be most advantageous, at par, or

307 at any discount (which sale shall be on such terms and in such
308 manner as the commission shall determine), and may contain such
309 other terms and covenants (including, without limitation,
310 covenants for the security and better marketability of such
311 bonds), as may be provided by resolution of the commission. The
312 commission is authorized and empowered to pay the costs that are
313 incident to the sale, issuance and delivery of the bonds
314 authorized under this act from the proceeds derived from the sale
315 of such bonds or from other lawfully available funds. Pursuant to
316 the provisions of this act, the commission may enter into such
317 agreements as may be necessary in connection with the sale and
318 issuance of such bonds. The total amount of bonds issued under
319 this act shall not exceed One Hundred Million Dollars
320 (\$100,000,000.00). No bonds shall be issued under this act from
321 and after January 1, 2007.

322 (2) Any investment earnings on amounts deposited into the
323 special fund created in Section 4 of this act shall be used to pay
324 debt service or used as otherwise directed by the commission in
325 accordance with applicable federal and state law and in accordance
326 with the proceedings authorizing the issuance of such bonds.

327 (3) Bonds issued by the commission pursuant to this act must
328 comply with and satisfy the requirements for the issuance of "Gulf
329 Tax Credit Bonds" pursuant to the Gulf Opportunity Zone Act.

330 **SECTION 6.** To satisfy the state matching requirement of the
331 Gulf Opportunity Zone Act in connection with the gulf tax credit
332 bonds authorized to be issued by this act, the commission is
333 hereby authorized to pledge, as of the date of the issuance of the
334 gulf tax credit bonds, any funds of the state available for debt
335 service or any other available funds of the state to make debt
336 service payments on qualified bonds of the state in an amount
337 equal to the face amount of the gulf tax credit bonds issued
338 pursuant to Section 5 of this act. Upon issuance of the gulf tax
339 credit bonds, the funds of the state pledged to satisfy the state

340 matching requirement of the Gulf Opportunity Zone Act shall be
341 deposited in the fund and used to make debt service payments on
342 qualified bonds of the state in accordance with this act and the
343 Gulf Opportunity Zone Act. The State Treasurer, acting on behalf
344 of the commission, is authorized to use all money on deposit in
345 the fund to make debt service payments in accordance with the
346 provisions of this act and the Gulf Opportunity Zone Act.

347 **SECTION 7.** The bonds authorized by this act shall be signed
348 by the chairman of the commission, or by his facsimile signature,
349 and the official seal of the commission shall be affixed thereto,
350 attested by the secretary of the commission. The interest
351 coupons, if any, to be attached to such bonds may be executed by
352 the facsimile signatures of such officers. Whenever any such
353 bonds shall have been signed by the officials designated to sign
354 the bonds who were in office at the time of such signing but who
355 may have ceased to be such officers before the sale and delivery
356 of such bonds, or who may not have been in office on the date such
357 bonds may bear, the signatures of such officers upon such bonds
358 and coupons shall nevertheless be valid and sufficient for all
359 purposes and have the same effect as if the person so officially
360 signing such bonds had remained in office until their delivery to
361 the purchaser, or had been in office on the date such bonds may
362 bear. However, notwithstanding anything in this act to the
363 contrary, such bonds may be issued as provided in the Registered
364 Bond Act.

365 **SECTION 8.** All bonds issued under this act shall be fully
366 negotiable in accordance with their terms and shall be
367 "securities" within the meaning of Article 8 of the Uniform
368 Commercial Code, subject to the provisions of such bonds
369 pertaining to registration. It shall not be necessary to file
370 financing statements or continuation statements to protect the
371 lien and pledge granted by the state to the holders of any bonds
372 issued under this act.

373 **SECTION 9.** The bonds issued under the provisions of this act
374 are general obligations of the State of Mississippi, and for the
375 payment thereof the full faith and credit of the State of
376 Mississippi is irrevocably pledged. If the funds appropriated by
377 the Legislature are insufficient to pay the principal of such
378 bonds as they become due, then the deficiency shall be paid by the
379 State Treasurer from any funds in the State Treasury not otherwise
380 appropriated. All such bonds shall contain recitals on their
381 faces substantially covering the provisions of this section.

382 **SECTION 10.** The bonds authorized under this act may be
383 issued without any other proceedings or the happening of any other
384 conditions or things other than those proceedings, conditions and
385 things which are specified or required by this act. Any
386 resolution providing for the issuance of bonds under the
387 provisions of this act shall become effective immediately upon its
388 adoption by the commission, and any such resolution may be adopted
389 at any regular or special meeting of the commission by a majority
390 of its members.

391 **SECTION 11.** The bonds authorized under the authority of this
392 act may be validated in the Chancery Court of the First Judicial
393 District of Hinds County, Mississippi, in the manner and with the
394 force and effect provided by Chapter 13, Title 31, Mississippi
395 Code of 1972, for the validation of county, municipal, school
396 district and other bonds. The notice to taxpayers required by
397 such statutes shall be published in a newspaper published or
398 having a general circulation in the City of Jackson, Mississippi.

399 **SECTION 12.** Any holder of bonds issued under the provisions
400 of this act may, either at law or in equity, by suit, action,
401 mandamus or other proceeding, protect and enforce any and all
402 rights granted under this act, or under such resolution, and may
403 enforce and compel performance of all duties required by this act
404 to be performed, in order to provide for the payment of such
405 bonds.

406 **SECTION 13.** All bonds issued under the provisions of this
407 act shall be legal investments for trustees and other fiduciaries,
408 and for savings banks, trust companies and insurance companies
409 organized under the laws of the state, and such bonds shall be
410 legal securities which may be deposited with and shall be received
411 by all public officers and bodies of this state and all
412 municipalities and political subdivisions for the purpose of
413 securing the deposit of public funds.

414 **SECTION 14.** Bonds issued under the provisions of this act
415 and income, if any, therefrom shall be exempt from all taxation in
416 the State of Mississippi. In addition, the amount of credit
417 determined in accordance with the provisions of the Gulf
418 Opportunity Zone Act and received by a holder of the bonds issued
419 under the provisions of this act shall not be included in the
420 income of such holder for state income tax purposes.

421 **SECTION 15.** The proceeds of the bonds issued under this act
422 shall be used solely for the purposes herein provided, including
423 the costs incident to the issuance and sale of such bonds.

424 **SECTION 16.** The State Treasurer is authorized, without
425 further process of law, to certify to the Department of Finance
426 and Administration the necessity for warrants, and the Department
427 of Finance and Administration is authorized and directed to issue
428 such warrants, in such amounts as may be necessary to pay when due
429 the principal of all bonds issued under this act; and the State
430 Treasurer shall forward the necessary amount to the designated
431 place or places of payment of such bonds in ample time to
432 discharge such bonds on the due dates thereof.

433 **SECTION 17.** This act shall be deemed to be full and complete
434 authority for the exercise of the powers granted in this act, but
435 this act shall not be deemed to repeal or to be in derogation of
436 any existing law of this state.

437 **SECTION 18.** Section 31-17-123, Mississippi Code of 1972, is
438 amended as follows:

439 31-17-123. (1) The intent of the Legislature is to
440 authorize borrowing funds under the provisions of Sections
441 31-17-101 through 31-17-123 to offset any temporary cash flow
442 deficiencies and should not be construed to authorize the
443 borrowing of any funds in an amount that cannot be repaid during
444 the fiscal year in which the funds are borrowed.

445 (2) (a) Notwithstanding any provision of this chapter to
446 the contrary, in the event that the State Fiscal Officer and the
447 State Treasurer make a determination that (i) state-source special
448 funds are not sufficient to cover deficiencies in the General
449 Fund, (ii) the State of Mississippi is unable to repay special
450 fund borrowing within the fiscal year in which it was borrowed, or
451 (iii) state-source funds are insufficient for disaster support
452 and/or assistance purposes due to Hurricanes Katrina and/or Rita;
453 and that the State Bond Commission makes a determination that such
454 deficiency, inability to repay, or insufficiency is the result of
455 a state of emergency within the State of Mississippi, the State
456 Bond Commission is authorized to obtain a line of credit, in an
457 amount not to exceed Five Hundred Million Dollars
458 (\$500,000,000.00), from a commercial lender, investment banking
459 group or a consortium of either, or both. The length of
460 indebtedness under this subsection shall not extend past three (3)
461 years following the origination of the line of credit. The line
462 of credit shall be authorized and approved by the State Bond
463 Commission and shall have such terms and details as may be
464 provided by resolution of the State Bond Commission. Loan
465 proceeds shall be received and disbursed by the State Treasurer
466 and deposited into the Disaster Recovery Fund, a special fund
467 hereby created in the State Treasury, and shall be used to cover
468 deficiencies in the General Fund, to repay special fund borrowing
469 and/or to cover any insufficiency in disaster support and/or
470 assistance. Monies remaining in the Disaster Recovery Fund at the
471 end of a fiscal year shall not lapse into the State General Fund,

472 but shall remain in the Disaster Recovery Fund and any interest
473 earned or investment earnings on amounts in the Disaster Recovery
474 Fund shall remain in the fund.

475 (b) As security for the repayment of the principal and
476 interest on the line of credit provided for in paragraph (a) of
477 this subsection, the full faith, credit and resources of the State
478 of Mississippi are hereby irrevocably pledged.

479 (c) Upon approval of the State Fiscal Officer, the
480 Director of the Mississippi Emergency Management Agency is
481 authorized to use amounts from the line of credit to match federal
482 funds, and for personnel, call-back wages, base and overtime
483 wages, travel, per diem and other out-of-pocket expenses incurred
484 as a result of Hurricanes Katrina and/or Rita.

485 (d) This subsection (2) shall be complete authority for
486 the borrowing authorized hereunder and shall not be subject to the
487 limitations provided in the other provisions of this chapter or
488 otherwise under state law.

489 (e) The State Treasurer shall notify the Legislative
490 Budget Office and the State Department of Finance and
491 Administration of each transfer into and out of the Disaster
492 Recovery Fund on a quarterly basis.

493 **SECTION 19.** Section 3, Chapter 534, Laws of 2006, is amended
494 as follows:

495 Section 3. There is hereby created in the State Treasury a
496 special fund, separate and apart from any other special fund, to
497 be designated as the Hurricane Disaster Reserve Fund. The State
498 Fiscal Officer shall transfer from the State General Fund into the
499 Hurricane Disaster Reserve Fund an amount equal to Two Hundred
500 Sixty-eight Million Dollars (\$268,000,000.00) during the period
501 beginning July 1, 2006, and ending June 30, 2007.

502 The funds transferred herein to the Hurricane Disaster
503 Reserve Fund shall be utilized to defray the state's share of any
504 nonfederal matching requirements for Federal Emergency Management

505 Agency grants associated with Hurricane Katrina and other
506 disasters. Unexpended funds remaining in the Hurricane Disaster
507 Reserve Fund at the end of the fiscal year shall not lapse into
508 the State General Fund but shall remain in the fund and any
509 interest earned or investment earnings on amounts in the Hurricane
510 Disaster Reserve Fund shall remain in the fund; however, any
511 interest earned or investment earnings on amounts in the fund
512 during fiscal years 2007 and 2008 shall be transferred by the
513 State Treasurer to the Emergency Aid to Local Governments Fund
514 created in Section 27-107-1.

515 Funds deposited into the Hurricane Disaster Reserve Fund
516 shall be used only for the purposes specified in this section, and
517 as long as the provisions of this section remain in effect, no
518 other expenditure, appropriation or transfer of funds in the
519 Hurricane Disaster Reserve Fund shall be made except by act of the
520 Legislature making specific reference to the Hurricane Disaster
521 Reserve Fund as the source of those funds.

522 **SECTION 20.** Section 6, Chapter 17, Laws of 2006, is amended
523 as follows:

524 Section 6. Of the funds appropriated under the provisions of
525 Section 2, Two Million Eight Hundred Thirty-nine Thousand Nine
526 Hundred Eight Dollars (\$2,839,908.00) shall be derived from the
527 Budget Contingency Fund created in Section 27-103-301, Mississippi
528 Code of 1972, and not more than One Hundred Million Dollars
529 (\$100,000,000.00) shall be derived from the proceeds of the sale
530 of the bonds authorized in Sections 2 through 17 of Senate Bill
531 No. 2002, 2006 First Extraordinary Session, and deposited into the
532 Tax Credit Bond Proceeds Fund created in Section 4 of Senate Bill
533 No. 2002, 2006 First Extraordinary Session, for the purpose of
534 paying maturing bonds and interest on the full faith and credit
535 bonds of the State of Mississippi.

536 **SECTION 21.** Upon passage of this act, the State Fiscal
537 Officer shall transfer One Hundred Million Dollars

538 (\$100,000,000.00) from the Budget Contingency Fund created in
539 Section 27-103-301 to the Disaster Recovery Fund created in
540 Section 31-17-123.

541 **SECTION 22.** This act shall take effect and be in force from
542 and after its passage.